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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,069	06/14/2001	Mark Tsai	TSA13011/EM/6863	6445

23364 7590 11/04/2004

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EXAMINER

AL AUBAIDI, RASHA S

ART UNIT	PAPER NUMBER
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2642

DATE MAILED: 11/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/880,069

Applicant(s)

TSAI, MARK

Examiner

Rasha S AL-Aubaidi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant recites in claim 1, "cellular phone is not limited in firm brands or model types and length or size is based on the size of a hand". Examiner believes the disclosure and the drawings fail to explain how a taller, shorter, and/or wider cellular phone would fit in the claimed box of Fig. 1 (box components 12, 13, and 14). If the phone was taller than the box, this means it is impossible for the phone to be placed within the claimed box. Also, if the phone was shorter than the box, which means the phone will not be totally secured within the box and certainly the phone will possibly be dropped from the claimed box. The last scenario is when the phone type is wider than the cellular phone 11 (shown in Fig. 1), it is almost impossible to insert a wider phone within the claimed box without breaking the entire box. Examiner assumes that the box was made of a material such as plastic for example, even though nowhere in the specification, claim and drawing applicant discussed the material of the box. In brief, the claimed limitation

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"cellular phone is not limited in firm brands or model types and length or size is based on the size of a hand" is not supported by the specification.

Claim Rejections - 35 USC § 103

3. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hirai et al (US PAT # 6,084,963).

Regarding claim 1, Hirai teaches a cellular phone ornament structure (reads on the outer casing 10 and a plurality of different cases 20A, 20B, and 20C in Figs. 1-5) mainly comprising of a cellular phone (30A in Fig. 1) and an assembling stand (holder connector 40 in Fig. 2, see also col. 3, lines 57-59, lines 65-67, and col.4 lines 1-5). The limitation cellular phone is not limited in firm brands or model types reads on the mobile phones 30A, 30B, and 30C in Fig. 4A, B, and C, also see col. 3, lines 35-40, and length or size is based on the size of a hand. The inner part of the assembling stand is in form of a box (the box reads on the main body 101, see Fig. 14 for example) and several springs (see Fig. 14, spring 113) whereas the outer part is of one particular type and can be fitted into empty bodies of specially designed models.

Hirai does not specifically teach the inner part of the assembling stand is in form of a box and consists of a group of elastic bands.

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However, since the purpose of the elastic bands (13) is to secure the telephone when it is placed in the box. Hirai teaches the inner parts of the casing 20A, 20B, and 20C, which are formed with the insertion spaces 22A, 22B, and 22C, which are designed to hold different types and models of phones. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to use an inner casing that is especially formed and designed to fit different types of phones. Advantages are well known, one example is encouraging consumers to purchase such a telephone holder and use it regardless of the phone type or model.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wang (US PAT # 5,555,302) teaches a mobile telephone holder comprising a base plate and two clamping plates, which are designed to fit different particular models of mobile telephones (see background and summery of the invention).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rasha S AL-Aubaidi whose telephone number is (703) 605-5145. The examiner can normally be reached on Monday-Friday from 8:30 am to 4:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad F Matar, can be reached on (703) 305-4731. The fax phone number for the organization where this application or proceeding is assigned is 06.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

Examiner

Rasha S Al-Aubaidi

10/26/2004


AHMAD MATAR
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